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SUBJECT: GOE SURPRISES EMBASSY WITH PROPOSAL FOR NEW AVIATION  
AGREEMENT

Ref. A) QUITO 175

1. (SBU) SUMMARY: GOE officials at the Ministry of Foreign Affairs (MFA) surprised the Ambassador with a proposal for a new aviation agreement on July 14. The Ambassador promised to share the proposal with Washington aviation colleagues. She cautioned that the USG still favors Open Skies agreements, but promised that the proposal would receive careful consideration. The MFA also informed the Ambassador that it has recommended that the GOE tax authority honor the existing aviation agreement. This development might finally end a dispute over the taxation of U.S. airlines' remittances that began in December 2007. End Summary.

2. (SBU) The GOE Ministry of Foreign Affairs (MFA) requested a meeting with the Ambassador on July 14 to deliver a proposal for a new U.S.-Ecuadorian aviation agreement. The Ambassador and EconOff met that afternoon with MFA Undersecretary for Sovereignty Claudia Donoso and other GOE officials to receive the proposal. In the meeting, the Ambassador expressed thanks for the GOE efforts and said that the USG was also interested in modernizing its aviation agreement with Ecuador. She expressed surprise at the apparent shift in GOE attitudes, since the Embassy had not received any advance notice that a proposal was even in the works, and previously the GOE had shown limited interest in a new aviation agreement. [Note: The Embassy arranged a digital videoconference (DVC) in August 2008, in which USG aviation officials expressed an interest in signing a new agreement with Ecuador. At the time the GOE expressed reservations that the "Open Skies" model preferred by the USG would expose Ecuadorian carriers to unmanageable competition. Follow-up Embassy requests to the GOE for information about what it could accept in a new aviation agreement have gone unanswered. End Note.]

3. (SBU) The Ambassador cautioned the GOE officials in the meeting that the USG still prefers an Open Skies model, and that technical decisions about the U.S. position will be made in Washington. She promised that the Embassy would help facilitate a dialogue between the GOE and US aviation authorities, however, and expressed hope that a mutually satisfactory agreement could be achieved. The Ecuadorians appeared to be prepared for this response, stressing that they had "gone very far" toward meeting U.S. desires in their proposal, but acknowledging as well that it was "a first step." They expressed hope that Ecuadorian and US aviation officials could discuss this issue directly via DVC or meetings.

4. (SBU) U/S Donoso expressed interest in discussing the aviation proposal in the upcoming U.S.-Ecuadorian Bilateral Dialogue, which is expected to be re-launched this fall. The Ambassador suggested that the Bilateral Dialogue was not an appropriate venue for negotiations due to the technical nature and the expected lengthy timeframe of the negotiations. She mentioned, however, that a discussion of commitments to a new aviation agreement could be a positive item for the Bilateral Dialogue.

15. (SBU) The Ambassador noted that until we are able to negotiate a new agreement, both sides will have to depend upon the existing accord, which was signed in 1986. She expressed a strong desire to see the GOE respect its terms, particularly with regard to the GOE taxation of remittances of U.S. carriers. This practice began in December 2007, and has resulted in US carriers paying hundreds of thousands of dollars in taxes that are expressly prohibited in the current agreement (reftel). The tax was initially .5%, but was raised to 1% in December 2008. There were press reports on July 14 that the GOE plans to double the tax to 2%, which would place an increased burden on U.S. carriers.

16. (SBU) The GOE officials responded that the MFA has issued a recommendation to the GOE tax authorities to honor the existing agreement. While never referring to the agreement as "valid," the MFA's lawyer told the Ambassador that the agreement had been signed "in good faith," and that the two countries had used it to establish a "long commercial relationship." The implication seemed very much to be that the agreement was at least provisionally valid. This news was an additional surprise, since EconOffs have been unsuccessfully pressing the GOE to end the taxation for over a year, and recently have not been able even to meet with GOE officials to discuss the matter. The MFA previously told EconOffs that they could not recognize the validity of the 1986 agreement, since it had never been ratified by Ecuador's Congress and no diplomatic notes were exchanged affirming its validity. EconOffs are now following up with the Ecuadorian tax agency to see if it will follow through on its earlier pledge to stop the taxation if it received MFA approval. The MFA officials urged us to submit a request for extension of the existing agreement, which they said would provide

additional evidence that both sides are acting as if the agreement is in effect.

COMMENT  
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17. (SBU) EmbOffs are puzzled by the dramatic shifts by the GOE. The first indication of changes came on June 4th, when the Director of the GOE's National Aviation Council, Guillermo Bernal, approached the Ambassador at a reception and expressed a desire to begin negotiating a new aviation agreement as soon as possible. EconOffs have since followed up with him, asking him to send us details about what kind of agreement would be acceptable to the GOE. We did not receive any indication that a proposal was being formulated, however. In previous conversations, Bernal has told EconOff that an Open Skies agreement was "impossible" for Ecuador, but he expressed a strong desire for a more open and liberal agreement than the 1986 accord.

18. (SBU) EconOff has asked industry contacts if they can explain the GOE's changed behavior. One possible motive may lie in rumors that the GOE plans to "de-militarize" the ownership of TAME, the Ecuadorian national carrier. TAME is currently prohibited from providing service to the U.S. due to its being owned by the Ecuadorian Air Force. Converting the airline to a civilian ownership structure would likely remove this obstacle. This may be creating interest in expanding access to the U.S. market and improving relations with the U.S. on aviation matters.

19. (U) The Embassy has sent the proposal to EEB's Office of Aviation Negotiations (EEB/TRA/AN) and the Department of Transportation. We would appreciate an assessment of the GOE proposal and, if possible, points on ways in which we can continue discussions with the GOE on this positive development.

HODGES